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January 14, 2003 Planning Commission Meeting

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearings

Report prepared by: Troy Fujimoto

Public Hearing: Yes: ☒ No: ☐

Notices Mailed On: 1-2-04 Published On: 1-1-04 Posted On: 1-2-04

TITLE: USE PERMIT NO. UP2003-49

Proposal: Request to locate a religious facility and expand the existing parking lot.

Location: 297 Autrey Street

APN: 026-03-029

RECOMMENDATION: *Approval with conditions*

Applicants: Living Water Baptist Church, 6320 Dairy Avenue, Newark, CA 94560

Property Owner: Kidango Inc., 4533 Mattos Drive, Fremont, CA 94536, attn: Paul Miller.

Previous Action(s): Use Permit

General Plan Designation: Single Family Low Density Residential

Present Zoning: Single Family Residential (R1-6)

Existing Land Use: Vacant Building

Agenda Sent To: Applicant & Owner (as noted above)

Attachments: Plans
Letter from Applicant

PJ#2358

BACKGROUND

In 1962 this site was part of a larger parcel, and was proposed to be part of an expansion of the adjacent church, which never occurred. The existing use at the site continues to be a day care center. The day care use, in the past, had noise complaints lodged against it by neighboring property owners. A comprehensive noise analysis was done at this time and it was determined that the use was not in violation of any noise standards.

Site and Area Description

The project site is located in the northeast section of the city, on an approximate 40,000 square foot parcel at the end of Autrey Street. The site is zoned R1-6 and is located amidst single-family homes. The site is surrounded by residential uses to the north, east, and west, and a religious facility immediately to the south. In addition, the hetch-hetchy right-of-way is adjacent to the site on the east.

THE APPLICATION

Pursuant to Milpitas Municipal Code Sections 4.04 (Single-Family Residential, Conditional Uses – Permanent Church Building) and Section 57.00 (Use Permits), the applicant is requesting approval of a Use Permit for a religious facility.

The applicant requests approval to modify the existing building to accommodate a 56 seat sanctuary with ancillary uses including bathrooms, classrooms, a kitchen and study area. The applicant proposes to have three weekly worship times, the main session is on Sundays from 12:30PM to 5:00PM, while the other two is on Wednesdays and Fridays, from 7:00PM to 8:30PM. In addition, the facility will have Sunday school from 9:30AM to 10:45AM. The applicant is also requesting modifications to the existing parking lot.

PROJECT DESCRIPTION

Building and Site Modifications

The applicant is not proposing any exterior modifications to the building. However, the applicant is proposing to increase the parking lot area by approximately 4 parking spaces. The site will have a total of 20 parking spaces when completed.

Landscaping

The site was developed prior to the incorporation of the City, therefore, no landscape plan exists. Further discussion is provided later in the staff report.

ISSUES

USE PERMIT FINDINGS

Any approval of a Use Permit or Use Permit Amendment requires that the Planning Commission make the following findings:

1. The proposed use is consistent with the Milpitas Zoning Ordinance.
2. The proposed use is consistent with the Milpitas General Plan.
3. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

The following sections explain how the proposed project, as conditioned, meets these findings.

Conformance with the Zoning Ordinance and General Plan

The proposed church facility is consistent with the "R1" Zoning District. The R1 District conditionally permits religious facilities (church buildings), following review and approval by the Planning Commission. The application is not modifying the building in any way. As such, the existing development continues to comply with the R1 District.

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The proposed use does not conflict with any General Plan policies, and is consistent with Guiding Principle 2.d-G-2, which encourages development of adequate civic, recreational and cultural centers in locations for the best service to the community and in ways which will protect and promote community beauty and growth.

Solid Waste/Recycling

The applicant is not proposing any new garbage facilities. The site is currently served by BFI, with residential service. After review by the City Solid Waste Division, the determination was made that because of the relatively small size of the facility, existing service would be adequate to serve the needs of the facility.

Landscaping

As previously mentioned, the site does not currently have an approved landscaping plan on file. With homes in the R1-6 (single-family) district, landscape plans are not required. However, because this use is a religious facility and it requires a conditional use permit for approval, the City does have the discretion to impose conditions on the use. Over the years, the landscaping has not been kept up. To improve the site and improve its compatibility with neighboring homes, *staff recommends* the applicant install landscaping in the existing planter areas around the parking lot. The landscaping shall include at a minimum, trees and bushes.

Parking

The zoning ordinance sets a minimum parking standard for religious facilities based on the seating or occupancy of the sanctuary or main assembly area. The minimum standard is one space per five (5) seats (or its equivalent). Therefore, the minimum required parking for this project, based on 56 sanctuary seats, is 11 parking spaces. The applicant is proposing 20 parking spaces as part of the parking lot modification. However, staff had a concern that potential overflow parking could impact the adjacent residential neighborhood. Staff requested the applicant to survey their existing facilities, during all of their meeting times, which would mirror what can be expected at this site. The results of the survey are in the table below:

Events	Date	Number of cars associated with attendees
Sunday Meeting	11/9/2003	18 cars
	11/16/2003	20 cars
Friday Meeting		7 cars
Wednesday Meeting		5 cars

The result of the survey indicates that the maximum amount of vehicles that would be on the site at even the highest peak usage would be 20 cars. Thus, the parking lot would be able to adequately accommodate the church users. Thus, staff does not anticipate a problem with parking for the site.

Neighborhood/Community Impact

As conditioned, the proposed religious facility is not anticipated to create a negative community impact. The project is well-suited to the site and provides adequate parking on-site for the Wednesday, Friday and Sunday meeting/sessions. In addition, staff has verified through the Police and Code Enforcement Departments that no recent complaints had been received in regards to the site. Therefore, staff concludes that the project as conditioned, will not negatively impact the surrounding neighborhood.

RECOMMENDATION

Close the Public Hearing. Approve Use Permit (P-UP2003-49) based on the Findings and Special Conditions of Approval listed below:

FINDINGS

1. The proposed project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) of the State CEQA Guidelines.
2. The proposed religious facility complies with the City's Zoning Ordinance in terms of land use and development standards for the Single Family Residential zoning district.
3. The project is consistent with the Milpitas General Plan in that it provides a religious facility in a location that will serve the both the immediate and larger neighborhood (Citywide).
4. The project is not anticipated to result in a negative community impact as religious facilities are allowed with appropriate conditions within the R1-6 Zoning District

SPECIAL CONDITIONS

1. This Use Permit No. UP2003-49 approval is for an approximate 2,500 square foot religious facility in an existing building, all in accordance with the plans approved on January 14, 2003. Any modification to the project as proposed will require a Use Permit Amendment by the Planning Commission. Minor modifications can be submitted to the Planning Division for processing pursuant to Section 42 of the zoning ordinance. (P)
2. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations, and in conformance with the approved plans. (P)
3. This use permit approval is not for any day care facilities. If day care facilities are to be proposed an amendment to the Use Permit will be required by the Planning Commission. (P)
4. All roof-top equipment shall be shielded from view in a manner to the approval of the Planning Commission or its designee as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code. Prior to the issuance of any permit for any roof-top equipment which projects above the height of any existing parapet wall or screen, detailed architectural plans for the screening of this equipment and/or line-of-sight view analysis demonstrating that the equipment will not be visible from surrounding view points shall be reviewed and approved as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code, in order to assure the screening of said equipment is in keeping with and in the interest of good architectural design principles. (P)

5. Prior to Certificate of Occupancy issuance, the applicant shall install landscaping in the existing planter areas around the parking lot. The landscaping shall include at a minimum, trees and bushes. (P)
6. If at the time of application for permit there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
7. If at the time of application for a certificate of occupancy there is a project job account balance due to the City for recovery of review fees, a certificate of occupancy shall not be issued until the balance is paid in full. (P)
8. Any occupancy of the tenant space shall not occur until all conditions of approval have been satisfied and verified by the City. (P)
9. At the time of building permit plan check submittal, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to building permit issuance. (E)
10. Prior to any permit issuance the developer shall dedicate the necessary Public Service Utility Easement (PSUE), as shown on the Engineering Exhibit "S", dated 12/5/2003. (E)
11. Prior to occupancy permit issuance, the property owner shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI for commercial services: (E)
 - A. An adequate level of service for trash collection.
 - B. An adequate level of recycling collection.

After the applicant has started its business, BFI commercial representative shall determine the adequacy of the solid waste level of services. If services found to be inadequate, the property owner/manager shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234, x-264.

12. The solid waste and recycling bins shall be stored at the back of the building and away from the public view. The bins shall also be located away from the existing storm drain inlets, this is intended to prevent the discharge of pollutants from entering the storm drain system, and help with compliance with the City's existing National Pollution Discharge Elimination System (NPDES) Municipal permit. (E)
13. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)
14. The developer shall submit a Sewer Needs Questionnaire and/or Industrial Waste Questionnaire with the building permit application and pay the related fees prior to Building Permit issuance by the Building Division. Contact the Land Development Section at (408) 586-3329 to obtain the form(s). (E)
15. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to storm fee, plan check and inspection deposit. (E)

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(P) = Planning Division

(E) = Engineering

Letter of Explanation Regarding the Proposal

To Whom It May Concern:

Living Water Baptist Church is going to apply for a Conditional Use Permit in the city of Milpitas for the property located at 297 Autrey Street. As a church doing multi-cultural ministry in this multi-cultural society of the San Francisco Bay Area, we would like to buy this property and use it not only for the personal growth of its members, but especially to enrich and aid those people around it who are in need.

Presently, we meet on Sundays and Fridays at the facility of the First Baptist Church of Newark (6320 Dairy Ave, Newark). The main meeting is on Sundays, when we meet from 12:30-5:00 PM. The schedule consists of a time of worship, Sunday School, and Fellowship. The attendance is about 45 adults, who faithfully and actively participate using their particular talents and gifts. On Friday nights, when we meet from 8:00-9:30, we have smaller meetings consisting of discipleship training and prayer meetings. Our ministry activities are currently limited by the availability of usage of the current facility as well as by time sharing.

If we are able to move to the facility in Milpitas, our schedule will change because we will not be splitting time, and therefore limiting our potential usage of the building. We will change the time of our worship service to 11:00 AM-12:30 PM, and Sunday School to 9:35-10:45 AM. Also, our Friday meetings will be moved to Wednesdays 8:00-9:30 PM.

The main ministries that we participate in consist of worship, fellowship, discipleship within the church, and evangelism and social ministry towards the community which we belong to. At present we support 3 missionaries and 2 mission groups.

Our English-speaking department regularly serves dinners once a month at Second Chance, a shelter for the homeless. But in the future, with our own facilities, we would like to extend the social ministry within our community to include events such as evening school for children, SAT tutoring for high school students, day-care for working couples, and more in order to help make our community a better place.

Our strong desire is to be a blessing in the community to which we belong. This is why we are applying for the CUP for the property on 297 Autrey Street in Milpitas. We believe that your help is crucial for the health of our church family as well as the church's ability to reach out and support the people in the community that the church is a part of.

Sincerely,



Living Water Baptist Church
October 30, 2003

To Whom It May Concern:

There was a request made at the meeting on October 30, 2003 concerning the application for the Conditional Use Permit for the property at 297 Autrey Street in Milpitas. The request was for the number of attendants we had at our church, and the number of parking spots that they required. This data was requested for two Sunday meetings as well as Friday meetings. The purpose of this data was to see how many parking spaces were needed for our members, and to see if there were enough spaces at the proposed site.

The data is as follows. On Sunday, November 9, 2003, there were 33 attendants who came in 18 cars. On Sunday, November 16, 2003, there were 42 attendants in 20 cars. On our Friday meetings, there are 15 attendants who come in 7 cars. This number is constant nearly every week.

If additional information is needed, we would be happy to provide it.

Sincerely,



11/17/03

Living Water Baptist Church

RECEIVED

NOV 17 2003

CITY OF MILPITAS
PLANNING DIVISION

To Whom It May Concern:

This is an addendum to the request made at the meeting on October 30, 2003 concerning the application for the Conditional Use Permit for the property at 297 Autrey Street in Milpitas. A request was made for the number of attendants and cars for our meetings in addition to the regular Sunday meetings.

The data is as follows. We meet on Wednesday's as well as Fridays. On Wednesdays, we have about 10 attendants in 5 cars. On Fridays, we have about 15 attendants in 7 cars. These numbers are constant. Also, our meeting times for both days will be 7-8:30PM.

If anything further is needed, we would be happy to provide it.

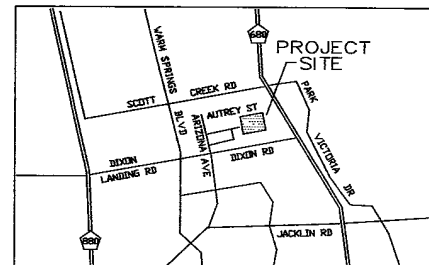
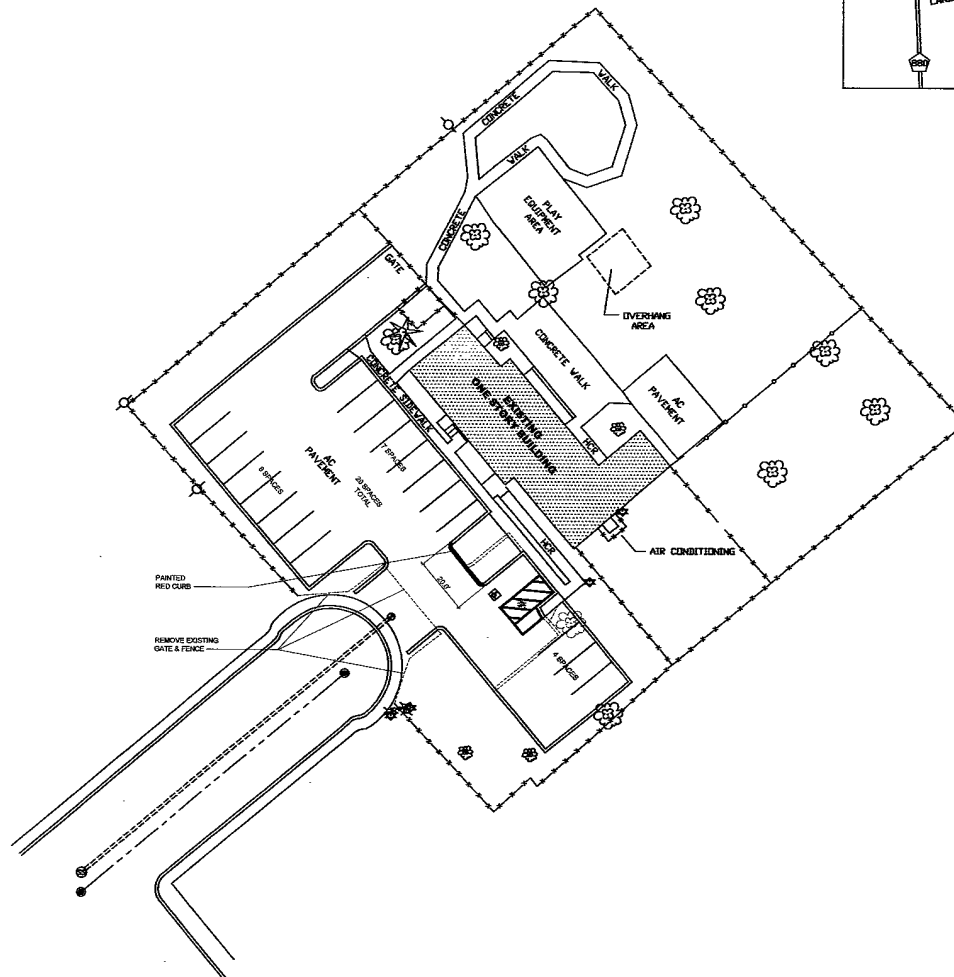
Sincerely,



Living Water Baptist Church
December 8, 2003

LEGEND

- PROPERTY CORNER
- FOUND PROPERTY CORNER
- STREET MONUMENT
- FOUND STREET MONUMENT
- POWER POLE
- TELEPHONE BOX
- SIGN
- STREET LIGHT
- × WATER METER
- × IRRIGATION CONTROL
- × SEWER CLEANOUT
- UTILITY VAULT
- CATCH BASIN
- GAS METER
- × BLOWOFF VALVE
- SANITARY SEWER MANHOLE
- STORM DRAIN MANHOLE
- SPOT ELEVATION
- WOOD FENCELINE
- CHAINLINK FENCELINE
- A.C. ASPHALT CONCRETE
- E.P. EDGE OF PAVEMENT
- T.C. TOP OF CURB
- B.W. BACK OF SIDEWALK
- T.W. TOP OF WALL
- T.G. TOP OF GRATE
- EXISTING
- ★ PALM TREE
- DECIDUOUS TREE
- BUSH/SHRUB



Baek Young Ahn Architect
 ARCHITECTURE • PLANNING • INTERIOR DESIGN
 10 Redwood Road, Suite 201, Redwood, California 94060
 650.522.9500 Fax 650.522.9501



PROJECT DATA:

ZONING: R1-G
 LOT AREA: 439,993 SF
 FLOOR AREA: 2,543 SF
 LOT COVERAGE: 2,543/99,993 = 8%
 BUILDING HEIGHT: ONE STORY
 TYPE OF CONSTRUCTION: V-N
 OCCUPANCY GROUP: A-3, B
 BUILDING USE:
 PROPOSED: CHURCH
 PREVIOUS: DAY CARE CENTER

NUMBER OF PARKING SPACES:

REQUIRED:	56 SEATS/ 5 = 112
PROVIDED:	
STANDARD	19
HANDICAP	1
TOTAL	20

RECEIVED

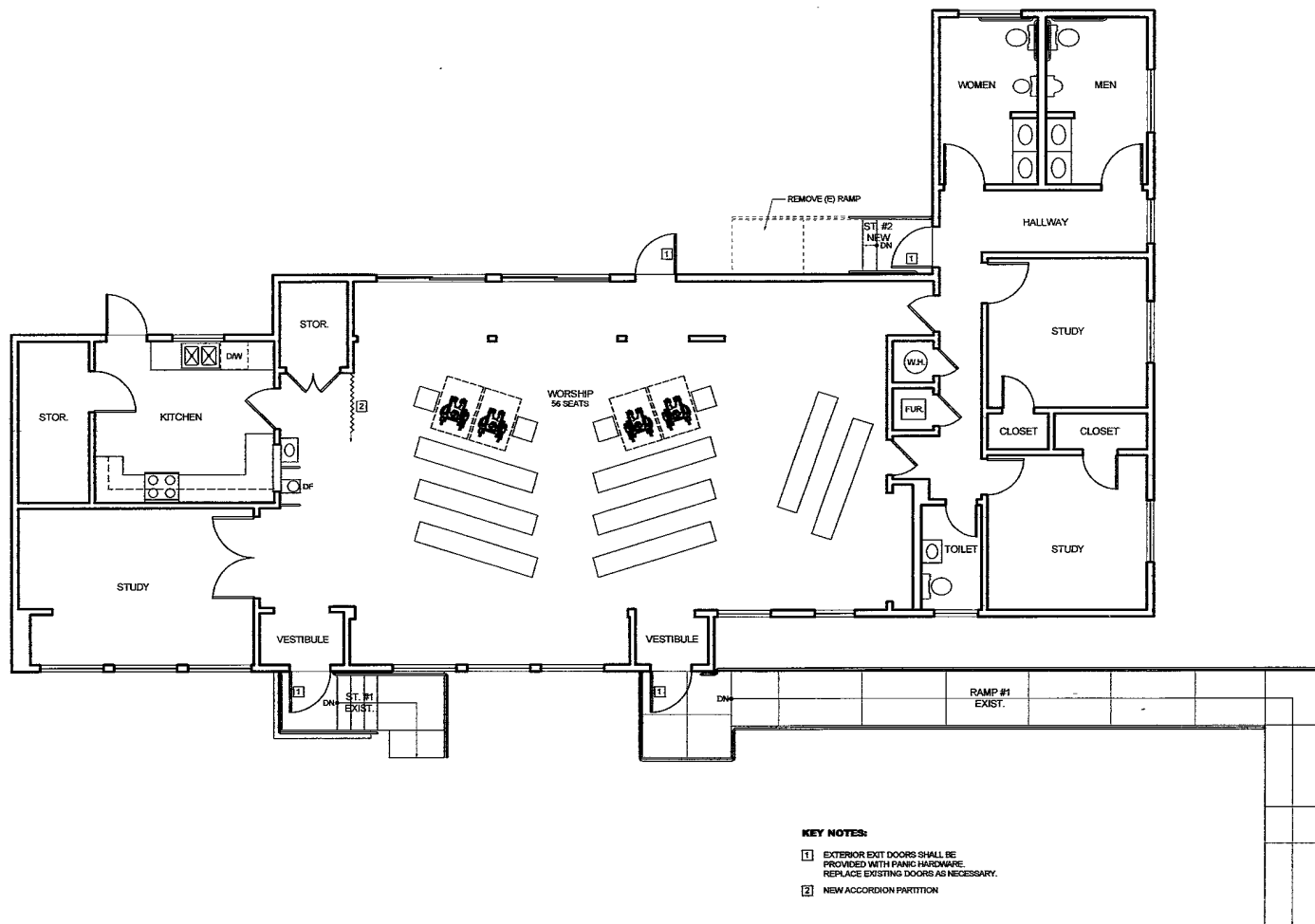
NOV 05 2003

CITY OF MILPITAS
 PLANNING DIVISION

1 SITE PLAN

1" = 20'-0"

PROJECT:	
LIVING WATER BAPTIST CHURCH	
297 Autrey Street	
Milpitas, California	
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FOR PLANNING APPROVAL	
NO.	DATE
PROJECT:	
LIVING WATER BAPTIST CHURCH	
297 Autrey Street	
Milpitas, California	
DWS TITLE	
SITE PLAN	
FOR PLANNING APPROVAL	
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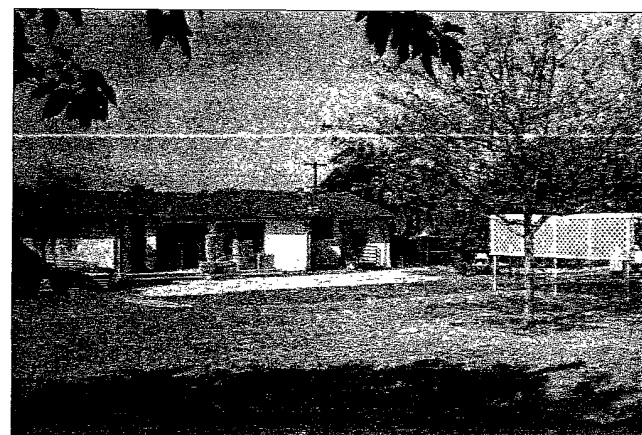
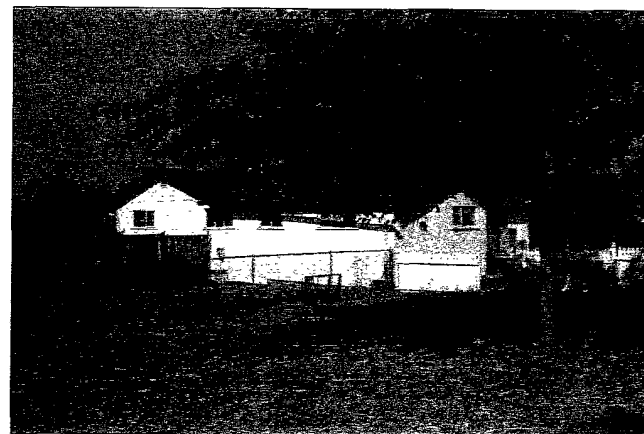
KEY NOTES:

- 1 EXTERIOR EXIT DOORS SHALL BE PROVIDED WITH PANIC HARDWARE. REPLACE EXISTING DOORS AS NECESSARY.
- 2 NEW ACCORDION PARTITION

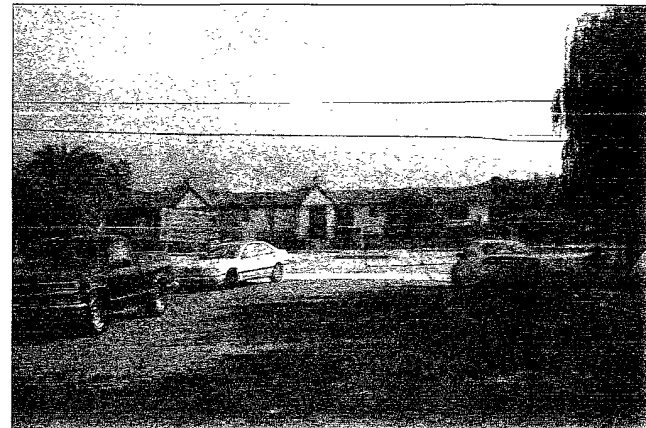
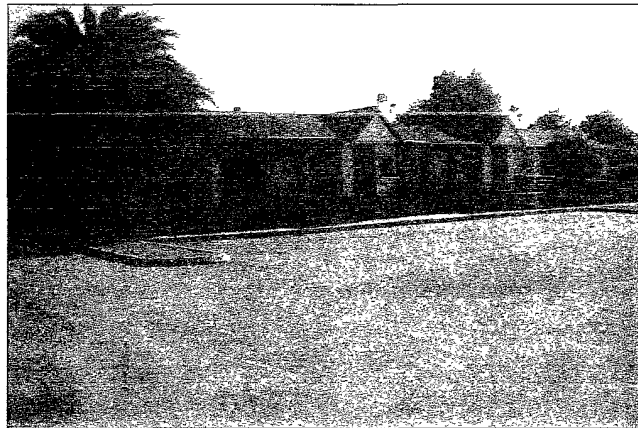
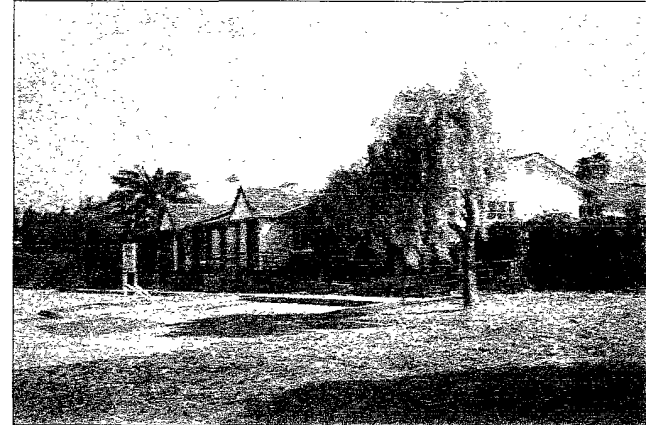
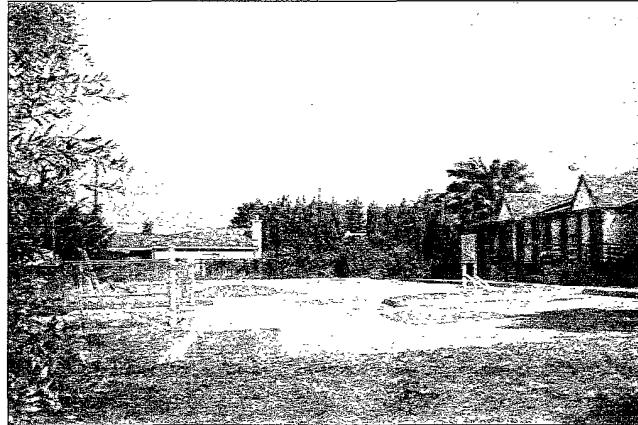
1 FLOOR PLAN

1/4" = 1'-0"

FOR PLANNING APPROVAL		11-04-03
PRELIMINARY DESIGN		10-21-03
NO.	DESCRIPTION	DATE
PROJECT:		
LIVING WATER BAPTIST CHURCH		
297 Autrey Street		
Milpitas, California		
DWS. TITLE		
FLOOR PLAN		
NORTH	PRJ. NO.	M0344
SCALE	DWS. NO.	A2.1
B 11/04/03		



LIVING WATER BAPTIST CHURCH
297 Autrey Street
Milpitas, California
October, 2003



LIVING WATER BAPTIST CHURCH
237 Autrey Street
Milpitas, California
October, 2003